

## **REMARKS**

Claims 7, 11-13, 17, 21-27, 30, and 31 are pending.

Claims 7, 11-13, 17, 21-27, 30, and 31 were rejected.

Claims 1-6, 8-10, 14-16, 28 and 29 were previously cancelled.

Claims 7, 17, 21, 22, 27, 30 and 31 are amended, herein.

Claims 32-38 are new. No new matter is added.

### **Claim Rejections Under 35 U.S.C. § 112**

The Examiner rejected claims 7, 11-13, 17, 21-27, 30 and 31 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Without admitting the propriety of the rejection, and without prejudice with regards to pursuing the claims as previously presented or in other forms in a continuation or other application, claims 7, 17, 21, 27 and 30 are amended to expedite prosecution. Specifically, the trademarks "MP3", "MPEG" and "Word" are deleted from the independent claims, such that the rejection is believed to be moot.

### **Declaration Under 37 C.F.R. § 1.131**

The Applicant swears behind the Hale reference (U.S. Patent 6,732,180) under CFR §1.131. The Applicant attaches a Declaration under §1.131 signed by the inventor of the present application that attests to the conception of the invention prior to Hale's filing date of September August 8, 2000. The Applicant also attaches Exhibit A in support of the Declaration showing material portions of an invention disclosure form submitted by the inventor to the present application's assignee's patent committee prior to Hale's filing date of September August 8, 2000. The present application was filed on December 7, 2000 which is less than four months from the filing date of the Hale application. The present application was prepared and filed by outside counsel to the assignee. Applicant respectfully submits that it is customary and usual for

outside counsel to require four months to prepare and file a patent application, while exercising due diligence.

Conception of the invention prior to the effective date of the Hale reference coupled with due diligence from prior to said date to the filing of the application is believed to satisfy the requirements of CFR §1.131. The Applicant therefore requests the Examiner to remove Hale as a reference, and to allow claims 7, 11-13, 17, 21-27, 30 and 31 whose rejection relied in part on Hale.

### **Claim Rejections Under 35 U.S.C. § 103**

The Examiner rejected claims 7, 11, 12, 21, 22, 24, 25, and 30 under 35 U.S.C. § 103(a) over Gupta, *et al.*, (U.S. Patent 6,389,532) in view of Hale, *et al.*, (U.S. Patent 6,732,180). The Examiner rejected claims 13, 17, 23, 26, 27, and 31 under 35 U.S.C. § 103(a) further in view of Gibbs, *et al.*, (U.S. Patent 6,085,321).

The rejection is traversed. Claim 7 is amended to delete the features that were added in the amendment dated October 11, 2007. Therefore claim 7 is amended to include the same features as previously examined claim 7 such that the present amendment of claim 7 would not necessitate a further patent search or new grounds for rejection.

Claim 7 recites a restricted data format method for a network infrastructure copy protection system, comprising:

- receiving a digital content file for transmission across a distributed computer network;

- examining data comprising the content file to determine whether the content file includes a restricted data format, the examining performed within the distributed computer network;

- transmitting the content file when data comprising the content file does not include the restricted data format; and

- blocking transmission of the content file when data comprising the content file does include the restricted data format to prevent unauthorized downloading of copyrighted material, wherein the blocking is effected prior to a transmission of the content file to a receiver.

The Examiner acknowledged that Gupta does not disclose examining data comprising the content file to determine whether the content file includes a restricted data format, or of

transmitting and blocking same content file (page 3 final paragraph of the 12/26/2007 Office Action), and instead identified Hale as allegedly disclosing these features.

The rejection of claims 7, 11-13, 17, 21-27, 30, and 31 is traversed on the grounds that the Hale reference should be removed as a reference, per the above mentioned CFR §1.131 declaration.

Additionally, Applicant notes that whereas Hale describes a firewall or filtering packets, Hale does not specifically disclose examining data comprising the content file to determine whether the content file includes a restricted data format (column 3 lines 10-17). Rather Hale describes filtering packets used in client-server or client-client communication protocols, for example packets sent to or from Napster. Doing so would inhibit searching or downloading media files from Napster. That Hale does not disclose blocking transmission of the content file when data comprising the content file does include the restricted data format, as recited by claim 7, may be further understood where the blocking schemes of Hale are described in further detail as using common ports used by media sharing software, checking protocol signatures, or checking transmission contents (column 3, lines 31-36). Common ports, protocol signatures and transmission contents are not data formats. For example, checking transmission contents could be understood as checking to see if a packet included copyrighted information, regardless of the data format of the contents.

If the Examiner is making an inherency argument, Applicant respectfully reminds the Examiner that according to MPEP 2112 (IV), to establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. In addition to the grounds that Hale should be removed as a reference of the present application, claim 7 is believed to be allowable over the combination of Gupta and Hale, as Hale's described filtering of packets fails to disclose examining data comprising the content file to determine whether the content file includes a restricted data format, as discussed above. Accordingly, withdrawal of the rejection of claim 7 is respectfully requested.

Whereas the rejection of claims 7, 11-13, 17, 21-27, 30, and 31 is traversed, Applicant further amends claims 17, 21, 22, 27, 30 and 31 to expedite prosecution. The amendment of claims 17, 21, 27, 30 and 31 is supported variously in Applicant's specification, including pages 14-15 identifying one or more senders 130a-d and a log including a file and one or more signatures.

Amended claim 17 recites a method comprising:

- receiving a digital content file for transmission across a distributed computer network;

- examining the digital content file to determine whether the digital content file comprises one or more signatures, wherein the one or more signatures identify one or more senders that requested transmission of the digital content file across the distributed computer network; and

- logging the digital content file and the one or more signatures in a log, wherein the log of the one or more signatures is maintained to determine an identity of the one or more senders of the digital content file.

The Examiner acknowledges that neither Gupta nor Hale disclose logging signatures (page 9, first full paragraph of the 12/26/2007 Office Action), and instead identifies Gibbs as allegedly disclosing these features. Applicant respectfully submits that the Examiner has misinterpreted Gibbs, or alternatively has interpreted Gibbs using impermissible hindsight.

Gibbs discloses an authentication log file that is maintained for recording status information concerning unique digital signatures (abstract). The Gibbs log file 200 comprises a system number field 230, system key field 234, and a status field 240. None of the fields 230, 234, 240 disclose a digital content file for transmission across a distributed computer network. Accordingly, Gibbs does not disclose logging a digital content file and one or more signatures in a log.

The log file 200 of Gibbs "comprises at least as many records as are desired for cycling the system key for unique digital signatures." (column 4 lines 24-26). The purpose of the log file 200, therefore, is to provide for unique digital signatures. Because Gibbs does not disclose logging a digital content file and one or more signatures in a log, one skilled in the art would appreciate that the log file 200 including fields 230, 234 and 240 could not be maintained to determine an identity of the one or more senders of the digital content file, as recited by claim 17.

Claims 21, 27, 30 and 31 are believed to be allowable for similar reasons as discussed with respect to claim 17. Claims 11-13 and 22-26 are believed to be allowable as depending on claim 7 or 21, as well as the further novel features recited therein. For example, claim 22 recites the device of claim 21 wherein the file transmission log is configured to maintain a plurality of digital signatures associated with a single digital content file, where each of the plurality of digital signatures is logged for a separate transmission of the digital content file. As discussed above with respect to the rejection of claim 17, since Gibbs fails to disclose logging a digital content file and a one or more signatures in a log, the log file 200 of Gibbs similarly could not be understood to maintain a plurality of digital signatures associated with a single digital content file. Accordingly, the withdrawal of the rejection of claims 7, 11-13, 17, 21-27, 30, and 31 is respectfully requested.

#### **New Claims**

Applicant adds new dependent claims 32-38. Support for the new claims may be found variously in Applicant's specification, including pages 14-15 identifying one or more senders 130a-d and a log including a file and one or more signatures.

Any statements made by Examiner that are not addressed by Applicant do not necessarily constitute agreement by the Applicant. In some cases Applicant may have amended or argued the allowability of independent claims thereby obviating grounds for rejection of the dependent claims.

### Conclusion

For the foregoing reasons, reconsideration and allowance of claims 7, 11-13, 17, 21-27 and 30-38 of the application as amended is requested. The Examiner is encouraged to telephone the undersigned at (503) 224-2170 if it appears that an interview would be helpful in advancing the case.

**Customer No. 73552**

Respectfully submitted,

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A handwritten signature in cursive script that reads "Bryan Kirkpatrick". The signature is written in dark ink and is positioned above a horizontal line.

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